

## *Minutes*

Meeting: Council on Coastal Futures

Place: NOAA Coastal Services Center  
North Charleston, SC

Date: August 1, 2003

Present: William W. Jones, Jr., Chairman  
Jesse C. Dove, Vice-Chairman  
Dana Beach  
Barbara Catenaci  
Fred Holland  
Hank Johnston  
Tom Leath  
Rep. Dwight Loftis  
John Miglarese  
John Settle  
Jack W. Shuler  
Mike Wooten

OCRM Staff: Chris Brooks  
Debra Hernandez

Facilitator: David McNair

Absent: William D. Baughman  
Paul G. Campbell, Jr.  
James S. Chandler, Jr.  
James Frazier  
Sen. John Kuhn  
Barrett Lawrimore  
Ellison D. Smith, IV

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### **Welcome**

Chairman Jones called the meeting to order at 9:30 a.m. and asked the Secretary to call the roll. There were 12 members present, thus establishing a quorum.

Chairman Jones stated that the news media and concerned citizens were notified, as required by the State Freedom of Information Act, of the following scheduled meeting:

Council on Coastal Futures  
9:30 a.m., August 1, 2003  
NOAA Coastal Services Center  
North Charleston, South Carolina

Chairman Jones stated that the Council has, therefore, complied with the South Carolina Freedom of Information Act.

## **Public Forum**

The public was invited to address the Council. Joseph Wolfe, President of the Wagener Terrace Neighborhood Association, a neighborhood in downtown Charleston, spoke about the docks constructed in the Ashley River adjacent to his neighborhood. The neighborhood association previously appealed the permit that allowed the construction of the community dock and two joint use docks. The Administrative Law Judge ruled against the neighborhood association citing the ambiguity of the regulation governing community docks. Mr. Wolfe wants to see OCRM's regulation 30-1 (D) (12) revised to better define community docks. (See Attachment A) Members of the Council asked Mr. Wolfe questions regarding coordination between local government and OCRM, zoning and local government jurisdiction. Dana Beach asked that the issue be noted for discussion at a subsequent meeting. Facilitator David McNair noted that the issue of docks was on the agenda for the November meeting. Chris Brooks noted that every community is different in how they deal with dock issues and OCRM tries to honor the differences in local governments.

Mr. Carl DiPace missed the public forum portion of the meeting, but his written comments were distributed to the Council and are attached hereto as Attachment B.

## **Administrative**

The minutes of the June 6, 2003, meeting were adopted with corrections.

The Interim Report to be submitted to the DHEC Board was discussed. Dr. Holland suggested that the word "streamlining" be eliminated from the report. Dana Beach asked about the recommendation regarding the automatic stay. He believed that the motion had been tabled and asked for clarification on how it was again before the Council. David McNair explained that when the motion was tabled it was decided that the matter would be reviewed by staff and staff would be asked to present a recommendation to the Council. He explained that it was decided at that time that the motion would be brought up again for discussion at today's meeting. After further discussion, McNair stated that the report would be taken up after lunch for discussion and approval so that the members of the Council could have additional time to review the report.

OCRM staff member Richard Chinnis addressed the Council on the matter of coordination with local governments. Mr. Chinnis explained the process of monthly interagency meetings where potential permit applicants are given the opportunity to sit down with different government representatives and present their project plans. (See Attachment C) In order to improve the process whereby local governments are offered participation in these meetings, DHEC will begin notification to the local government with jurisdiction over the proposed project in its meeting notification procedure. Mayor Johnston questioned whether this would go far enough in involving local governments. He suggested that local governments be invited to other subsequent meetings involving a project in addition to the interagency meeting. David McNair stated that this issue would be addressed at a later time when the issue of local government coordination is discussed.

The Council next considered the report of the Resource Management Issues Subcommittee. (See Attachment D) The subcommittee recommended that the Council address

the issues of stormwater management, isolated wetlands and access to and development of islands. Mayor Johnston made a motion to adopt the subcommittee's recommendations and with a second by Mr. Leath the motion passed unanimously.

### **Finalizing the Automatic Stay Recommendation**

The Council revisited the motion tabled at the June 6 meeting which stated as follows: *"Eliminate the regulation that calls for an automatic stay upon appeal of a valid DHEC permit; eliminate the circuit court level of the appeal process, require that ALJs render a decision in 90 days, and extend the notice to file an appeal from 15 to 30 days."* Chris Brooks gave the staff's recommendation on the motion, which was that the staff did not have a recommendation but suggested the Council not look further into the issue. He stated that the issue had been discussed at two previous meetings and that the issue had been voted down. He stated that staff was not supportive of the motion due to the different complex issues contained within it. Staff believes that the issues contained in the motion would all require legislative approval and that none of them were likely to succeed. He stated that staff felt that it had been discussed thoroughly, voted down, and now Council should turn its attention to other matters. John Settle agreed with Mr. Brooks and withdrew his motion. Jesse Dove withdrew his second of the motion, noting that the issue should be dealt with in the legislature.

### **Brad Wyche, Executive Director, Upstate Forever**

Brad Wyche, the former Chairman of the SCDHEC Board, presented recommendations to the Council. Chris Brooks presented Mr. Wyche with a gift from the staff for his many years of support for the coastal program. He presented recommendations for the "big picture," goals to accomplish over the next 25 years, not necessarily in the immediate future. The first issue he discussed was submerged lands leasing. He suggested that private property owners should not have free use of state-owned submerged lands, as the state is presumed to own all land below mean high water unless a King's Grant is proven to exist. He would like to see the creation of a Submerged Lands Leasing Act to allow the state to be compensated for use of the land, with all monies collected going to coastal programs. The second recommendation is to enact a South Carolina Freshwater Wetlands Protection Act. He believes that this is an urgent issue, given the recent SWANCC decision by the U. S. Supreme Court wherein the Court ruled that the Corps of Engineers no longer has jurisdiction over isolated freshwater wetlands. He believes there should be a statewide isolated freshwater wetlands program where a permit would be required to alter these wetlands. Next, he recommended that the Legislature not review agency regulations. He believes that the agencies should be entrusted with the regulation process to speed up the process. Should the Legislature not approve of an agency's action they could assert their authority by amending the law.

His next recommendation was that the Council on Coastal Futures, OCRM, local governments, business leaders, the Councils of Government and other interested parties should work together to prepare a plan for the future use and development of the coastal zone. He believes that these entities should come together in an overall "blueprint" for the future of the coast. He suggested that this process could be modeled after the "Envision Utah" program in Salt Lake, which has proven to be a very successful program. He believes that the Council on

Coastal Futures should be the centerpiece for this type of approach. He encouraged the Council to study the Governor's Quality of Life Task Force Report and implement its recommendations. He recommended the reestablishment of the Coastal Council, believing that the coast of South Carolina is too important and should be the sole focus of a separate agency. He wants to see the promotion of the connection between the protection of the environment and our natural resources with economic development. He believes there is a misconception that protection of the environment hurts the economy. (See Attachment E) A lengthy discussion followed regarding Mr. Wyche's remarks. Dana Beach suggested that the Council consider the agency structure as an agenda item at a future meeting.

### **Implications of the Public Trust Doctrine for Coastal Management in South Carolina**

Tony MacDonald, Executive Director of the Coastal States Organization addressed the Council. He began by explaining what the Coastal States Organization is, and what its goals are. He then discussed the Public Trust Doctrine, a state right to choose how it recognizes the public uses of the public trust resources and implement that through management programs and regulations. The doctrine is for the benefit of the public. Public Trust Lands are generally from the mean high water mark down. He stated that the courts are the final arbitrators of the public trust in each state. David McNair commented that CSO is a good resource for the Council. Chris Brooks noted that the linkage between the public trust resources and wetlands is the necessity to minimize impacts to the public trust lands. (See Attachment F)

### **Interim Report**

The draft Interim Report was discussed at length. (See Attachment G) Dr. Holland would like to remove the word "streamline" from the report. The inclusion of Recommendation #5 (elimination of the automatic stay) was debated among the members of the Council. Much of the discussion centered on the vote that was tabled at the previous meeting because it did not achieve a super majority vote. After a full discussion, Dana Beach moved to send the list of recommendations approved at this point as the interim report to the DHEC Board and to not include the other actions that the Council has taken that have not resulted in affirmative recommendations. Barbara Catenaci provided a second to the motion. Further discussion followed, with Dr. Miglarese suggesting that the word "Recommendations" be changed to "Considerations." The motion was voted on and carried.

### **State Beach Nourishment Needs**

Rocky Browder, OCRM's Regional Permit Administrator in Beaufort, addressed the Council on the matter of the state's beach nourishment funding needs. (See Attachment H) He said that the General Assembly established the State Beach Renourishment Trust Fund in 2000, but to date, no funds have been appropriated. In the meantime, the States's beaches are diminishing, thus eroding their ability to support tourism and provide storm surge protection. Criteria in OCRM Regulation R.30-18 provide guidelines for evaluating beach renourishment priority needs by defining a healthy beach profile. OCRM staff conduct annual beach monitoring that provides an accurate assessment of the beach's health and allows for

comparative analysis between areas. Based on this monitoring OCRM produces an annual State of the Beaches Report that, this year, identified Hunting Island State Park, the Town of Edisto, Edisto State Park and Folly Beach as being in critical need of maintenance renourishment. The staff recommendation is for the Council on Coastal Futures to endorse the following recommendation: *“The State should capitalize and adequately fund the State Beach Renourishment Trust Fund whose purpose is to provide State matching funds for priority public beach renourishment projects areas and to provide for emergency response needs to repair beaches after hurricanes.”*

Mayor Johnston moved to adopt the recommendation with a second by Mr. Wooten. Dana Beach asked where the funding would come from. Mr. Brooks responded by saying that there would be a 50/50 split of non-federal costs. If there were no federal involvement then there would be a 50/50 split with the local government of total project cost. He said that PRT is asking for \$10 million for Hunting Island and Edisto Beach. He said that the federal government had traditionally paid 60% of the cost of a project when there was a federal cost-share agreement. Mayor Johnston stated that he did not believe that the Council had enough information to make a decision. Dr. Miglarese stated that maybe the recommendation should end with renourishment and maintenance and not include emergency response needs, which is already a part of the FEMA response process. Chris Brooks stated that the State had to match the money FEMA provided. Dana Beach stated that he would like to see a provision included that would provide more structure for what the money would be used for. Chris Brooks responded by indicating that Regulation 30-18 sets out the priority system. After further discussion, the Council voted unanimously to adopt the recommendation.

### **Assessment of Beach Access Needs**

Tony Bebbber, Planning Manager for the South Carolina Department of Parks Recreation and Tourism addressed the Council on the subject of beach access needs. (See Attachment I) Mr. Bebbber gave an overview of the findings of the latest South Carolina State Comprehensive Outdoor Recreation Plan (SCORP). He stated that the report identified one of its priority issues as increased public beach access, as have previous SCORP reports since the early 1980's. Due to lack of funding, however, opportunities have been lost over the last 30 years to acquire land for a coastal state park or to increase beach access. He described the measures North Carolina, Georgia and Florida have gone to secure funding for beach access. Dr. Holland asked about the priority structure for the money. Mr. Bebbber stated that there was an open project selection process based on the SCORP findings.

The following recommendation was presented to the Council for consideration: *“The Council on Coastal Futures recommends that increased State funding be provided for public beach access improvements and acquisition through an annual dedicated funding source adequate to meet the increasing demand for beach access.”* Chris Brooks stated that OCRM staff wrote the recommendation to bring focus to a problem OCRM sees for the day visitor trying to get to the beach. He stated that OCRM would leave it to PRT as to how to go about it. Dr. Miglarese made a motion to modify the motion to read, *“The Council on Coastal Futures recommends that alternative funding sources be determined to dedicate to public beach access improvements and acquisition to meet the increasing demand for beach access.”* Mr. Wooten provided the second to the motion. Dana Beach recommended adding the words, “alternative

strategies and sources for funding” to the motion. Dr. Miglarese accepted the amendment to the motion. Mr. Settle stated his opposition to the motion citing the need for more research prior to the recommendation being accepted. Discussion continued on the amount of information currently available and what information still needs to be gathered. Mayor Johnston stated that the addition of “strategies” to the motion would be adequate to address these concerns. Dr. Miglarese again stated his motion as follows: “The Council on Coastal Futures recommends that strategies and alternative funding sources be determined to dedicate to public beach access improvements and acquisition to meet the increasing demand for beach access.” The Council voted unanimously to accept the motion.

### **Assessment of Boating Access Needs**

James Hackett, Environmental Planner for OCRM, addressed the Council on the subject of boating access. (See Attachment J) He stated that SCDNR conducted a statewide assessment in 1992 of each county’s boater usage needs and boat ramp facility construction needs to serve the projected demand through 2010. Since this study was conducted the population along the coast has grown tremendously, and the facilities provided to meet the estimated demands area already at maximum capacity. OCRM staff’s recommendation as follows is designed to update the 1992 Survey: *“Update the 1992 South Carolina Registered Boat Owner Survey for the purpose of assessing boater needs and identifying the demand for boat ramp facilities for each coastal county; and support State funding to meet these needs in the coastal area.”*

Dr. Miglarese made a motion to accept the recommendation with a second from Mr. Settle. Dr. Holland made a motion to amend the motion to add language stating that the survey should result in a plan being developed to meet the needs identified in the survey. Jesse Dove provided a second to Dr. Holland’s motion and the amended motion passed unanimously which reads, *“Update the 1992 South Carolina Registered Boat Owner Survey for the purpose of assessing boater needs and identifying the demand for boat ramp facilities for each coastal county; and support a plan and State funding to meet these needs in the coastal area.”*

### **Coastal States Organization Recommendations to U.S. Commission on Ocean Policy**

Debra Hernandez, OCRM’s Director of Program and Policy Development and CSO Chair, provided an overview of the Coastal States Organization recommendations to the Commission on Ocean Policy. She stated that the information provided (see Attachment K) might provide some ideas for topics the Council may want to consider. The Council discussed the recommendations. Dana Beach pointed out that there is a theme running through the recommendations that is cooperation between local governments, a pertinent subject for the Council on Coastal Futures. Dr. Holland stated that he believed the recommendations were targeted at NOAA and its possible reorganization.

### **Local Government Assistance Recommendation**

Facilitator David McNair directed the Council’s attention to Priority 2: Assistance to Local Government. (See Attachment L) Under this priority is a recommendation for assistance

to local government and within this recommendation is a plan to identify a suite of “Best Urban Design” land use measures to reduce the impact of development on coastal resources. The Council discussed this plan. Dana Beach discussed the need for the Council to develop a plan to protect local ecosystems and the need to inform local governments about what OCRM does. He stated that he would gather some examples to present to the Council for consideration. Chairman Jones stated that Jim Mozley would make a presentation in September on the Palmetto Bluff model. Mayor Johnston noted the need for South Carolina to recognize the value in protection of its natural resources and the need for statewide education. The Council briefly discussed private property rights.

### **Meeting Wrap-up and Next Steps**

Facilitator, David McNair, suggested that the Council forward their requests for speakers on this subject to Debra Hernandez. Dr. Holland noted that Wendy Allen has offered to host a meeting at the Baruch Institute and take the Council on a field trip to view isolated wetlands.

Following the announcement of next month’s meeting location at the Litchfield Golf and Beach Resort, the meeting was adjourned at 3:30 pm.

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Janet M. Kruger

September 5, 2003